DOCUMENT RESUME

ED 412 841 HE 030 632

AUTHOR	Callan, Patrick M.; Honetschlager, Dean A.,
TITLE	Policies for Improving Trustee Selection in the Public Sector. AGB Occasional Paper No. 13.
INSTITUTION	Association of Governing Boards of Universities and Colleges, Washington, DC.
PUB DATE	1991-00-00
NOTE	18p.
AVAILABLE FROM	Association of Governing Boards of Universities and Colleges, One Dupont Circle, Suite 400, Washington, DC 20036 (members, $4.95; nonmembers, $9.95; quantity discounts).
PUB TYPE	Opinion Papers (120) -- Reports - Descriptive (141)
EDRS PRICE	EDRS Price MF01 Plus Postage. PC Not Available from EDRS.
DESCRIPTORS	Academic Freedom; Accountability; Administrator Selection; Criteria; Educational Administration; Educational Planning; Educational Policy; Higher Education; Organizational Climate; Politics of Education; *Public Colleges; Public Sector; Resource Allocation; *Trustees

ABSTRACT

This paper reviews the history of how trustees are selected to boards of public institutions of higher education and offers specific recommendations to improve the selection process. The paper notes a trend toward an overall decline in the effectiveness of boards and reports that the major factor identified in several recent analyses is the quality of board appointments with appointing authorities failing to select the most qualified and committed citizens. Constraints faced by governors, legislators, or other authorities are considered, as are recent efforts in a number of states to make improvements in appointment processes, Recommendations are grouped into those for states (such as ensuring a method of needs assessment, a screening mechanism, an explicit set of criteria for candidates); those for governors (such as establishing a nonpartisan screening process, seeking a diverse group of appointees, and establishing orientation programs for new trustees); and those for state legislatures (including development of statements of criteria, provision of adequate staff and funds to investigate candidate credentials, and review of performance and qualifications of trustees nominated for reappointment). The importance of establishing procedures prior to consideration of individuals is stressed. (BF)

****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

ED 412 841

Association of Governing Boards of Universities and Colleges

Policies for Improving Trustee Selection in the Public Sector

By Patrick M. Callan
and Dean A. Honetschlager

AGB OCCASIONAL PAPER NO. 13

HE 030 632

BEST COPY AVAILABLE

PERMISSION TO REPRODUCE AND DISSEMINATE THIS MATERIAL IN OTHER THAN PAPER COPY HAS BEEN GRANTED BY

AGB

TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)

U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)

☑ This document has been reproduced as received from the person or organization originating it

☐ Minor changes have been made to improve reproduction quality

• Points of view or opinions stated in this document do not necessarily represent official OERI position or policy

AGB initiated the Occasional Paper Series in 1991 to address current and emerging issues of concern to board members and administrators in the context of their institutional settings. Written by acknowledged experts, AGB's occasional papers focus on educational and governance trends that affect administrators and policy makers.

AGB distributes new titles in the Occasional Paper Series as they are published to chief executives and board chairs of member institutions. Additional copies are available at a nominal charge by calling or writing to AGB.

Copyright 1992 Association of Governing Boards of Universities and Colleges, One Dupont Circle, Suite 400, Washington, D.C. 20036. All rights reserved.

One Dupont Circle, Suite 400, Washington, D.C. 20036
Association of Governing Boards of Universities & Colleges

I. A History of How Trustees are Selected to Boards of Public Higher Education

Our assessment is that boards of trustees and other governing and coordinating boards are having difficulty performing as effective public bodies.

--- Frank Newman, Choosing Quality (1987)

Less than adequate appointments result in less than adequate leadership by boards, which in turn leads to board appointments being less attractive to fully qualified individuals. This downward spiral leads to more interference by the states because of perceived lack of leadership.

--- Clark Kerr and Marian L. Gade, The Guardians (1989)

The fact remains that left entirely to their own devices, academic communities are no less prone than other professional organizations to slip unconsciously into complacent habits, inward-looking standards of quality, self-serving canons of behavior.

--- Derek Bok, Universities and the Future of America (1990)

For both practical and philosophical reasons, lay boards of trustees have been responsible for the governance of American colleges and universities since the beginning of higher education in Colonial America. The leadership of these boards in nurturing the development of higher education institutions as well as in ensuring public accountability has been central to the vitality of the American higher education system. Lay governance has permitted colleges and universities to operate in a decentralized manner and with a considerable degree of independence from governmental and bureaucratic control. This has enabled the American higher education system to emerge as preeminent internationally in quality and degree of access.

All public and private higher education in the United States is governed by lay boards. In public higher education, the lay boards are responsible for 1,482 state and locally supported colleges and universities; in 1987, these institutions enrolled 9,326,000 students--almost 80 percent of the total college enrollment. The majority of students in public higher education attend institutions governed by a multicampus board. Approximately three-fourths of the members of public college and university boards of trustees are appointed by governors, often with legislative confirmation. The other two most common methods of appointment are by popular election and election by the legislature.

The central responsibilities of the boards of trustees, historically and currently, are to carry out what Clark Kerr and Marian Gade have described as "the function of guardianship" of the institutions of higher education and of the public interest in the institutions, "To guard and care for the following:

- The overall and long-run welfare of the overall institution, including its specially chosen missions, and the best of its past and its brightest prospects for the future;
- The autonomy of the institution from outside bureaucratic, economic, and political domination;
- The academic freedom of the members of its community;
- The balance of the institution against single-minded demands of internal or external constituencies; and
- The public welfare in the general conduct of the institution, including the wise use of its resources and its adherence to high levels of academic behavior -assuring social responsibility and simultaneously protecting institutional autonomy."[1]

The issues and problems facing public higher education in the 1990s are placing new demands and pressures on colleges and universities and on those responsible for their governance and leadership. State and local governments, which provide most of the financial support, are confronting financial crises of unprecedented magnitude, compounded by a national recession. Competition for scarce dollars from other public sector activities and programs essential to public welfare--including health care, highways, corrections and public schools--is intense. Public confidence in higher education has been eroded by scandals in athletics and controversies involving research, indirect cost recovery, and by perceptions--whether justified or not--that the educational enterprise is less productive than it should be in a time of severe fiscal pressure.[2]

As higher education seeks to negotiate the difficulties of the 1990s, and plan for the 21st century, the role of its "guardians" in stimulating change, supporting purposeful leadership, and restoring confidence has never been more critical. Yet when strong and effective boards of trustees are most needed, many boards have been seriously weakened, and their capacity to fulfill the guardian role is questionable. While there are many effective boards and many highly committed and competent individuals who serve on them, there is virtual consensus among those who have examined the issue since 1980 that the overall effectiveness of public higher education governing boards is declining. Boards can be no more effective than the character, competence, and dedication of their individual members. Who makes up the board makes a difference.

The National Commission on College and University Trustee Selection (1980), chaired by Robert Scott, former governor of North Carolina, reported "a general and pervasive erosion in the autonomy of public governing boards and their

presidents to manage internal affairs as a result of governmental regulatory initiatives. Such erosion threatens the independent authority for educational decisions, which has been the strength of American higher education since its inception."[3]

In his study of relations between state governments and public universities, Frank Newman found that public boards were having difficulty performing two essential tasks, "holding the institution accountable to the public purposes and buffering it against undue intrusion."[4]

In their assessment of the performance of boards and trustees, The Guardians, Clark Kerr and Marian Gade found that in public higher education, "A slow erosion has been taking place in the positions of boards of trustees, and this erosion is now reaching a point of concern in some institutions--and even a point of no return in a few."[5]

These reports cite a number of factors that contribute to the decline in board effectiveness, not the least of which are the increase in size and complexity of higher education institutions and the problems inherent in governance of large multicampus systems. However, the major factor to which all of these analyses attribute the weakening of public governing boards is the quality of board appointments. Although there continue to be important exceptions, appointing authorities and appointing processes often fail to select the most qualified and committed citizens to serve on boards of public institutions. In addition, the process frequently fails to tap the many and diverse pools of talent and commitment in the states, resulting in homogeneous boards that lack insight and ability to respond to increasingly diverse educational needs. A recent survey of public higher education trustees in one state found that 71% of those currently serving on governing boards are male, and 51% are over 60 years of age.[6]

Unfortunately, many appointing authorities and processes face numerous constraints in selecting governing board members. First and foremost is the general lack

of understanding of the critical role of these boards. Other pressures faced by the governors, who make most of the appointments to public boards include the following:

- Governors are pressured to use board appointments--particularly appointments to the most prestigious universities--to reward individuals and organizations for political support.
- The large number of appointments governors must make, particularly early in their administrations, mitigates against careful selection and can sometimes cause governing board appointments to be lost in the crowd. In some cases, governors have come to understand the importance of these appointments only after they have designated most of their best appointees.
- In most states, no tradition of careful consideration and no requirement exists that governing board appointments be treated differently from other appointments to boards and commissions.
- In most states, no explicit criteria or statement of general qualifications for these appointments exists.
- In most states, no systematic process for recruiting and screening potential appointees exists.
- In many governors' offices, those most knowledgeable about higher education play little or no role in the appointment process, which is managed by a staff responsible for all gubernatorial appointments.
- In some states, board appointments are considered politically sensitive but unimportant.

In most states where the governor is the appointing authority, at least one house of the legislature must confirm gubernatorial nominees to public governing boards.[7] Here, as in the governor's offices, certain constraints and pressures work against careful review of nominees. These include the following:

- Traditions of passivity and deference to the governors on appointments.
- Partisanship.

- Tendency of the legislators and staff members most knowledgeable about higher education to play little or no role in the confirmation process, which is often the responsibility of a committee responsible for confirmation of gubernatorial nominees to all state positions.
- Lack of explicit criteria for review of qualifications.
- Lack of a systematic process for reviewing the qualifications of nominees.

Many of the states in which the electorate or the legislature choose trustees share these deficiencies, particularly the lack of explicit criteria and screening process.

When all the foregoing constraints against careful selection and review are considered, it should come as no surprise that authorities such as Kerr and Gade, Newman, and the Scott Commission conclude that the institution of the public higher education governing boards are in decline.

In recent years, however, there has been growing interest in improving the qualifications of board members and the procedures used for selection, appointment, and confirmation. In 1980, the Scott Commission, chaired by a former governor and composed of state executive and legislative officials, corporate and philanthropic leaders, and former university presidents, proposed that governors appoint nominating committees to assess the needs of governing boards. The commission suggested such committees consider individuals' skills and backgrounds, seek and screen qualified candidates, and nominate three candidates for each vacancy. Kerr and Gade in The Guardians said in 1988 that "the appointment process is likely to work better where an effective means for nominating, screening, and confirming board members exists."[8]

Recently, the effectiveness of governing boards has interested several state leaders and has spurred action. Most of the attention has focused on the appointment and confirmation process and on the preparation of board members to assume their responsibilities. Examples include the following:

- After reorganization of the public higher education system in Maryland, the governor was required to appoint 26 members to the boards of the University of Maryland System and the Coordinating Commission for Higher Education. He appointed an advisory group to seek qualified candidates to nominate a slate of candidates.
- The governor of Massachusetts established by executive order a screening committee similar to that used for the selection of judges.
- The Minnesota legislature, which selects the regents of the University of Minnesota, established the Regent Candidate Advisory Council to establish criteria and to recruit and screen candidates.
- Oklahoma and Colorado passed legislation providing a program of mandatory continuing education for members of governing boards.
- Bills to establish screening processes have been introduced in Kentucky, Wisconsin, and Michigan.
- The Kansas legislature, as part of an NCSL-AGB initiative, is conducting a national survey of the legislative role in reviewing executive appointments to governing boards.
- The Nebraska legislature, also with NCSL-AGB support, is establishing a process to select members to the recently established coordinating commission.
- The North Dakota Constitution provides for a nominating committee to screen potential nominees and to develop a list of three names for each vacancy on the state board of higher education. The governor must make his selections from the list. Appointees must be confirmed by the state senate.

Special selection processes for high-level, nonpartisan appointments are not unprecedented in state government. Thirty-four states use some type of screening commission--established by executive order, statute, or the state constitution--to

nominate candidates for the judiciary. The process does not preclude appointing authorities from selecting qualified candidates of compatible philosophy or political orientation. As Kerr and Gade say in their discussion of selection and confirmation of college trustees, "It must be recognized that politics cannot be taken out of political appointments, but political considerations can be made subject to more balanced judgment."[9]

II. Recommendations to Improve the Trustee Selection Process

While there are notable exceptions, states have generally underestimated the potential of trustees to strengthen higher education, to stimulate greater responsiveness to societal needs, and to preserve the freedoms necessary to achieve excellence. Every state should review its trustees-selection procedures to ensure they include the following:

1. A method to determine the needs of the institution and the board with respect to the skills, experiences, knowledge, and backgrounds of board members.

2. A screening mechanism to identify and evaluate a qualified and diverse pool of candidates.

3. An explicit set of criteria to apply to all candidates during the screening process. In addition to specific characteristics that may be needed to strengthen the institution and its boards, the screening process should seek candidates of unimpeachable personal integrity, independence, commitment to education, willingness to devote the necessary time and energy, and willingness to forego any partisan political activity that could be disruptive or harmful to the institution.

4. Provisions for orienting new trustees and for periodic in-service education of continuing trustees. Trustees should be kept up-to-date on matters related to the responsibilities of governing boards and their members and on state and national issues and trends in higher education.

Governors must recognize that the appointment of trustees represents one of the most important policy tools for maintaining and enhancing vigorous state systems of higher education. Such appointments are among governors' most important legacies to colleges and universities and to their states. Governors also must understand that they can improve the quality of trustee appointments while taking into account political support and philosophical points of view. Specifically, governors who appoint trustees should do the following:

1. Establish by executive order a nonpartisan screening process similar to those used in many states for judicial appointments.
2. Take institutional needs into account in the appointment of trustees.
3. Provide for open recruitment and application.
4. Seek appointees of both genders and of varied background, experience, occupations, and ethnicity. All appointees should be qualified and should accept the role of trusteeship in the broad public interest.
5. Develop or require screening committees to develop explicit statements of qualifications.
6. Assign to staff members most knowledgeable in higher education a major role in the trustee appointment process.
7. Require that trustees under consideration for reappointment be reviewed by a screening committee and that their general performance (not their specific positions or votes) and qualifications are reviewed.
8. Establish orientation programs for new trustees and for ongoing in-service education of boards.

State legislatures are an underutilized resource in the strengthening of boards of trustees. When the governor is the appointing authority and no screening process is

established by executive order, the legislature should adopt rules or enact a statutory process. In states where the legislature is the appointing authority, the same steps should be taken as we have recommended for governors. The confirmation process should be viewed as a major responsibility as well as an opportunity. Legislatures can play an effective role in improving boards of trustees through the confirmation process without undermining the prerogatives of the governors. Specifically, legislatures should do the following:

1. Develop statements of criteria to use in the confirmation process. The governor and the public should understand such criteria in advance.
2. Provide adequate staff and funds to ensure proper investigation of candidates' credentials.
3. Involve legislators and staff most knowledgeable about higher education in the confirmation process.
4. Review the performance and qualifications of trustees nominated for reappointment.
5. Provide for the orientation and in-service education of trustees, and appropriate funds for these activities.

In states and localities where board members are elected, nonpartisan public-interest citizens' organizations can develop criteria and review and endorse candidates. In some states, such as Illinois and Michigan, the screening role appears to have been performed satisfactorily by alumni of major universities. Utah, where the state board of education (which is not a governing board for colleges and universities) is elected, has initiated a process that combines regional screening committees and gubernatorial nomination of two candidates for each vacancy with open elections and the right of any citizen to file as a candidate. In situations where no such credible process exists, the

election of trustees is particularly vulnerable to inappropriate partisan influence and to the election of trustees whose primary commitment is to special interests rather than to the welfare of the institution and to the public interest.

In addition to those individuals with explicit responsibilities for the appointment of trustees, others who do not have specific responsibilities in the process might help to create an environment more conducive to sound trustee appointments. Greater attention to trustee selection by the media would help to create pressure for improved selection as well as to make the election or appointment of unqualified trustees less likely. Alumni associations should monitor the selection of trustees, participate in the screening and nominations process, and hold appointing authorities accountable for the quality of their selections and for the diversity of boards.

III. A Call to Action

The proposals offered in this paper are put forward to draw attention to the need to improve trustee selection procedures. It is our hope that they will stimulate discussion and additional or better recommendations. We must improve the process, and there is room for improvement at every stage of screening, selection, and confirmation. The mechanisms we have suggested illustrate the possibility of more systematic and careful approaches at each step.

We are mindful of the fact that some recommendations will be highly sensitive. They involve relationships between the executive and legislative branches of state

government. They ask governors and legislatures to propose and implement some constraints on their own prerogatives. The temptation will be for each branch to favor the constraints that bind the other. We recommend instead that each branch begin by taking the steps that will improve its own role in the process. We also recommend that these measures be considered apart from the appointment, election, or confirmation of specific trustees. These procedures need to be put in place in advance of the consideration of individuals--or the selection process may become more rather than less ad hoc and partisan.

Improved boards of trustees are no panacea for American higher education in the 1990s. However, without improvements in the boards, many public colleges and universities may find it increasingly difficult to attract and maintain the strong presidential leadership they need, to respond to multiple and conflicting societal demands, and to enhance quality and opportunity in a time of severe financial constraints. In the absence of effective boards, the public credibility of higher education may decline, and pressures for counterproductive centralization and regulation could mount.

The stakes in the effectiveness of higher education in the 1990s are high for the states. Without healthy colleges and universities, states cannot hope to realize their aspirations for high-quality jobs, revitalized public schools, and social justice. The states cannot afford to permit their institutions of higher education to decline in quality, become unresponsive to demands for high-quality instruction and research, or fall into the mediocrity characteristic of highly centralized organizations dominated by multiple

layers of internal or external bureaucracy.

Revitalized boards offer a partial alternative to the scenarios of decline. However, as Kerr and Gade put it so succinctly: "A board is only as good as its members."[10] There are few areas in which states can have as great an influence on the future of their colleges and universities. By taking a few straightforward steps, such as those proposed in this paper, and at small cost, states could bolster this quintessential American institution of citizen governance.

ENDNOTES

1. Clark Kerr and Marian L. Gade, The Guardians (Washington, D.C.: Association of Governing Boards of Universities and Colleges, 1989), p. 12.

2. See, for instance, "An End to Sanctuary," Policy Perspectives, September, 1991.

3. National Commission on College and University Trustee Selection, Recommendations for Improving Trustee Selection in Public Colleges and Universities (Washington, D.C.: AGB, 1980), p. 14.

4 Frank Newman, Choosing Quality (Denver: Education Commission of the States, 1987), p. 50.

5. Kerr and Gade, ibid., p. 105.

6. The October 1991 survey of Oklahoma trustees was part of the NCSL-AGB initiative. More than two-thirds of the 155 trustees in Oklahoma public higher education responded to the survey.

7. Current information on the review and confirmation responsibilities of state legislatures can be found in Kimberly Downing, Senate Confirmation Procedures for Gubernatorial Appointments," Eagleton Institute of Politics, October, 1991.

8. Kerr and Gade, ibid., p. 43.

9. Kerr and Gade, ibid., p. 39

10. Kerr and Gade, ibid., p. 39.

DEAN A. HONETSCHLAGER

Dean Honetschlager is an independent consultant specializing in state education policy development and implementation.

From 1987 to 1989, he was program director for education programs at the National Governors' Association in Washington, D.C. In that position he was responsible for directing policy analysis, surveying and reporting on state education policy initiatives, and providing direct assistance to state policy makers on their policy options.

Prior to joining the staff of the National Governors' Association, Dr. Honetschlager spent fifteen years with Minnesota state government directing a policy research and development unit in its state planning agency and higher education coordinating board. His responsibilities at the Minnesota State Planning Agency included education and human services policy development and budget review for the governor. He also worked in the public schools as a teacher, counselor, and administrator. He left the public schools to join the Upper Midwest Regional Educational Laboratory as a program coordinator.

PATRICK M. CALLAN

Patrick M. Callan is director of the California Higher Education Policy Center Study. He is a former senior consultant to the Education Commission of the States, and has served as staff director of the California legislature's Joint Committee on the Master Plan for Higher Education, director of the Montana Commisssion on Postsecondary Education, executive director of the Washington State Council for Postsecondary Education, executive director of the California Commission on Postsecondary Education, and vice president of the Education Commission of the States. He has written extensively on education and public policy.